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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 ROBERT JACKSON,

10 Petitioner,

11 vs.

12 WARDEN WILLIAMS, et al.,

13 Respondents.
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Case No. 2:16-cv-02033-APG-NJK

ORDER

15 Petitioner, who is a prisoner in the custody of the Nevada Department of Corrections, has
16 submitted an application to proceed in forma pauperis (ECF No. 1) and a petition for a writ of
17 habeas corpus pursuant to 28 U.S.C. § 2254. The court dismisses this action because plaintiff did
18 not include with his application a copy of his inmate account statement and a signed financial
19 certificate, as required by 28 U.S.C. § 1915(a)(2). Based upon review of the file, it does not appear
20 that a dismissal without prejudice would affect materially the timeliness of a promptly filed new
21 action.¹
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25 ¹On March 16, 2016, the Nevada Court of Appeals reversed petitioner's conviction in part.
26 State v. Jackson, 2016 WL 1170797 (Nev. App. 2016). Another appeal involving the same criminal
27 case is pending in the Nevada Supreme Court, No. 70211. If the judgment of conviction is final,
28 then it became final on June 14, 2016, and as of October 5, 2016, at most only 113 days have run.
If the currently pending appeal is part of a properly filed petition for post-conviction or other
collateral review, then it qualifies for tolling under 28 U.S.C. § 2244(d)(2), and even less time has
run.

1 IT IS THEREFORE ORDERED that the clerk of the court shall send petitioner a blank form
2 for an application to proceed in forma pauperis for incarcerated litigants and a blank § 2254 habeas
3 corpus petition form with instructions.

4 IT IS FURTHER ORDERED that the application to proceed in forma pauperis (ECF No. 1)
5 is **DENIED** without prejudice.

6 IT IS FURTHER ORDERED that this action is **DISMISSED** without prejudice to
7 petitioner's commencement of a new action in which he either pays the filing fee in full or submits
8 a complete application to proceed in forma pauperis, accompanied by a signed financial certificate
9 and a statement of his inmate account. The clerk of the court shall enter judgment accordingly.

10 DATED: October 6, 2016.

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14 ANDREW P. GORDON
15 United States District Judge
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